IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 21ST NOVEMBER 2007 / 30TH KARTHIKA 1929

Bail Appl..No. 7098 of 2007(B)

(CRIME NO. 214/2007 OF BADIADKA POLICE STATION)
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PETITIONER/ACCUSED:

FOUZIYA, AGED 30 YEARS,
W/O ABDUL KAREEMHAMMED,
D/O ABDUL KHADER, R/AT. ETHIRTHODE,
PADY VILLAGE, KASARAGOD DISTRICT.

BY ADV. SRI.M.SASINDRAN,
ADV. SRI.K.P.HARISH.

RESPONDENTS/COMPLAINANT & STATE:
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1. **STATE OF KERALA, REPRESENTED BY**
   PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

2. **THE STATION HOUSE OFFICER,**
   (CRIME NO.214 OF 2007 OF BADIADKA POLICE
   STATION), KASARAGOD DISTRICT.

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 21/11/2007,THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No. 7098 2007

Dated this the 21st day of November, 2007

ORDER

Application for anticipatory bail. The petitioner is the 2nd accused. She is the wife of the first accused. The crime has been registered for the offence punishable under section 420 read with 34 IPC. The crux of the allegations is that the accused persons in furtherance of their common intention, had induced the de facto complainant to part with an amount of Rs.80,000/- on the promise that visa for employment abroad shall be made available to him. The husband is employed abroad. The wife showing copy of the forged visa had allegedly received an amount of Rs.80,000/- from the de facto complainant. Job was not provided. The amount was not returned. It is in these circumstances that the de facto complainant filed a private complaint before the learned Magistrate which was referred by the learned Magistrate to the police under section 156(3) Cr.P.C. Crime has been registered. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. There are some disputes between the de facto complainant and the husband of the petitioner. As the husband is not available in India, totally false allegations are raised

against the petitioner in an attempt to coerce her to settle the dispute between her husband and the de facto complainant. It is prayed that anticipatory bail may be granted to the petitioner subject to appropriate terms and conditions.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that the contumacious role of the petitioner is revealed clearly from the allegations in the case. It is prayed that anticipatory bail may not be granted to the petitioner.

4. Having considered all the relevant facts, I am persuaded to agree with anticipatory bail can be granted in favour of the petitioner subject to appropriate terms and conditions.

5. In the result, the Bail Application is, allowed. The following directions are issued in favour of the petitioner:-

i) The petitioner shall surender before the learned Magistrate at 11 a.m on 1.12.07. She shall be enlarged on regular bail by the learned Magistrate on condition that she deposits an amount of Rs.20,000/- (Rupees Twenty thousand only) and executes a bond for Rs.75,000/-(Rupees seventy five thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate. Amount, if any, deposited shall be retained in fixed deposit for a period of one year such that the deposit along with the interest accrued can be directed to be released later subject to directions of the court.

ii) The petitioner shall make herself available for interrogation before the Investigating Officer between 10 a.m and 1 p.m on 3.12.2007 and 4.12.2007 and thereafter between 10 a.m and 12 noon on all Mondays and Fridays for a period of one month. Subsequently the petitioner shall make herself available for interrogation before the Investigating Officer as and when directed by the Investigating Officer in writing to do so;

iii) If the petitioner does not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioner and deal with her in accordance with law as if those directions were not issued at all;

iv) If the petitioner were arrested prior to her surrender on 1.12.2007 as directed in clause (1) above, he shall be released from custody on his executing a bond for Rs.75,000/- (Rupees Seventy Five thousand only) without any sureties undertaking to appear before the learned Magistrate on 1.12.07.

(R.BASANT, JUDGE)

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